

Section 1345 - Sexually-Oriented Businesses

1345.01 Findings, Purpose and Objectives. The Council finds that sexually-oriented businesses have adverse secondary characteristics particularly when they may be accessible to minors or are located near residential properties or schools, day care centers, libraries and parks, and can exert a dehumanizing influence on persons attending or using such places or facilities.

Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing City crime prevention programs and law enforcement services.

Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.

The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating -- other businesses move out of the vicinity and residents flee from the area. Declining real estate values, which can result from the concentration of such businesses, erode the City's tax base and contribute to overall urban blight.

The regulation of sexually-oriented businesses by prescribing licensing requirements is warranted to prevent criminal activity and promote public health. Further, the prevention of criminal activity and the promotion of public health requires intensive efforts with respect to sexually-oriented businesses which exceed those required to control and regulate other business activities in the City.

1345.02 Terms. The following terms have the meanings provided by Section 850 of this Code:

- A. Adult Body Painting Studio.
- B. Adult Bookstore.
- C. Adult Cabaret.
- D. Adult Companionship Establishment.
- E. Adult Conversation/Rap Parlor.
- F. Adult Health/Sport Club.
- G. Adult Hotel or Motel.

- H. Adult Mini-Motion Picture Theater.
- I. Adult Modeling Studio.
- J. Adult Motion Picture Arcade.
- K. Adult Motion Picture Rental or Sales.
- L. Adult Motion Picture Theater.
- M. Adult Novelty Sales.
- N. Adult Sauna/Bathhouse/Steam Room.
- O. Sexually-Oriented Businesses.
- P. Specified Anatomical Areas.
- Q. Specified Sexual Activities.

1345.03 License Required. No person shall operate a sexually-oriented business within the City unless such business is currently licensed under this Section.

1345.04 License Application. Every application for a license under this Section shall be made on a form supplied by the Clerk and shall be filed with the Clerk. The provisions of Section 160 of this Code shall apply to all licenses required by this Section and to the holders of such licenses. In addition to the information required by Section 160 of this Code, the application for a license under this Section shall contain the following information. Failure to complete or supply such information may cause an application for a license to be denied.

A. If the applicant is a natural person:

1. The true name, place and date of birth, current address and telephone number of the applicant.
2. Whether the applicant has ever used or has been known by a name other than the applicant's true name; and if so, such name or names and information concerning dates and places where used.
3. A specific statement as to the type and nature of the business to be licensed.
4. The name of the business, if it is to be conducted under a name other than the full individual name of the applicant, in which case a certified copy of the certification required by M.S. Chapter 333, shall be attached to the application.

5. The addresses at which the applicant has lived during the previous five years, including a statement of how long the applicant has been continuously a resident of the State during the period as of and immediately preceding the date of application.
6. The kind, name and location of every business or occupation in which the applicant has been engaged during the preceding five years.
7. The names and addresses of the applicant's employer(s) and partner(s), if any, who were such at any time during the preceding five years.
8. Whether the applicant has ever been convicted of any felony, crime, or violation of any provisions of this Code or State Law other than traffic violations and, if so, information as to the time, place and offense for which convictions were had.
9. A physical description of the applicant.

B. If the applicant is a partnership:

1. The names and addresses of all partners and all information concerning each partner as is required of an applicant under paragraph A. of this Subsection.
2. The name(s) of the managing partner(s), and the interest of each partner in the business.
3. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to trade name under the provisions of M.S. Chapter 333, a certified copy of such certification shall also be attached.

C. If the applicant is a corporation or other organization:

1. The name of the applicant, and if incorporated, the state of incorporation.
2. A true Certificate of Good Standing, dated as of a current date, and true copies of the Articles of Incorporation or Association Agreement and Bylaws shall be attached to the application. If a foreign corporation, a Certificate of Authority issued pursuant to M.S. Chapter 303, shall also be attached.
3. The name of the person(s) who is to manage the business and all information concerning the person(s) as is required of an applicant under paragraph A. of this Subsection.
4. The names of all officers, directors and persons who control or own an interest in excess of five percent in such corporation or organization and all information

concerning the persons as is required of an applicant under paragraph A. of this Subsection.

D. The location of the premises to be licensed and a floor plan of the premises.

E. Whether the applicant is licensed in other cities or has had a license revoked, or has been denied a license, to conduct any of the activities required to be licensed hereunder; and if so, when and where the applicant is or was so licensed, has had a license revoked or has been denied a license.

1345.05 License and Investigation Fees.

Subd. 1 **License Fee.** Each application for a license or renewal license shall be accompanied by the fee set forth in Section 185 of this Code. Upon rejection of any application for a license, the Clerk shall refund the amount paid.

Subd. 2 **Investigation Fee.** At the time of each original application for a license, the applicant shall deposit an investigation fee as set forth in Section 185 of this Code. The cost of the investigation will be based on the expense involved. All deposited monies not expended on the investigation will be refunded to the applicant.

1345.06 Investigation. All applications shall be referred by the Clerk to the Police Chief and to such other City departments for investigation of facts set forth in the application. Within 45 days after the application date, the Police Chief and any other consultants shall submit a written recommendation to the Manager as to issuance or non-issuance of the license, setting forth the facts upon which the recommendation is based.

1345.07 Approval or Denial of Application. Within 60 days after the application date, the Manager shall either approve or deny the application and shall notify the Clerk in writing of the decision. If the application is approved, the Clerk shall issue the license. If the application is denied, the Clerk shall furnish written notice of the denial to the applicant, together with the reason or reasons for denial. In addition to the reasons set forth in Subsection 160.04 of this Code a license may also be denied for any of the following reasons:

Subd. 1 **Under Legal Age.** If an individual applicant is under the age of 18.

Subd. 2 **Conviction without Sufficient Rehabilitation.** If the applicant, or any principal officers, managers, directors, shareholders, or owners, if a corporation or association, or any partners, if a partnership, has been convicted of any crime or crimes directly relating to the operation of a sexually-oriented business, as provided in M.S. 364.03, Subd. 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities, as provided in M.S. 364.03, Subd. 3.

Subd. 3 **Prior Denial of License.** If the applicant, or any principal officers, managers, directors, shareholders, or owners, if a corporation or association, or any partners, if a partnership, has within two years prior to the date of application been denied

a license under this Section or within the period has had revoked any license issued under this Section.

Subd. 4 **Zoning Restriction.** If the premises to be licensed does not meet all of the requirements of Section 850 of this Code with respect to sexually-oriented businesses.

Subd. 5 **Ineligible Premises.** If the premises to be licensed is currently licensed as an escort service, physical culture and health service, physical culture and health club, reducing club, reducing salon or massage parlor in accordance with Section 1340 of this Code or is currently licensed to sell beer, wine or liquor in accordance with Section 900 of this Code.

1345.08 Renewal Application. Not less than 30 nor more than 60 days before the expiration of any license issued pursuant to this Section, any license holder desiring to renew the license shall submit a written application to the Clerk on forms provided by the Clerk together with payment in full of the license fee as required for the original license. The renewal application shall be forwarded to the Manager who shall, within 30 days after the renewal application date, either approve or deny the application and shall notify the Clerk in writing of this decision. The Clerk shall then issue the license or, in case of denial, notify the applicant in writing of the denial setting forth the reason or reasons therefor.

1345.09 Appeal to Council. Any applicant may appeal the denial of a license or a license renewal by filing a written notice of appeal to the Council in the Clerk's office within 30 days after the denial. The Council shall hear the appeal within 30 days after the notice is filed, and opportunity shall be given to any person to be heard in favor of or opposing the issuance or renewal of the license. The Council may order and conduct such additional investigation as it deems necessary. Any licensee is authorized to continue to operate until final action by the Council upon licensee's renewal application, unless prohibited by Council resolution made after the denial.

1345.10 License Not Transferable; Duration. Each license shall be issued to the applicant only and shall not be transferable to another holder. Any change in the persons named as partners on the application, as required by paragraph B. 1, of Subd. 1 of Subsection 1345.04 and any change in the persons who are named in the application as required by paragraph C. 4, of Subd. 1 of Subsection 1345.04, shall be deemed a transfer for purposes of this Section. If the licensee is a limited partnership, a change in the limited partners of less than 25 percent cumulatively over the license period, shall not be deemed a transfer. The change in or addition of a vice-president, secretary, or treasurer of a corporation licensee shall not be deemed a transfer. All licenses issued pursuant to this Section shall be effective from July 1 through June 30.

1345.11 Suspension or Revocation of License. The Council may suspend for any period not exceeding 60 days, or revoke, any license issued pursuant to this Section upon finding a violation of any provision of this Section or upon violation of any other provision of this Code or State Law or regulation affecting the activities covered by this Section. Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the Council shall be preceded by written notice to the licensee of a hearing in accordance with Subsection 160.16 of

this Code. The notice may be served upon the licensee personally or by mailing it to the business or residence address set forth in the application or on file with the Clerk. The notice shall give at least ten days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days.

1345.12 Restrictions and Regulations.

Subd. 1 **Hours of Operation.** No business licensed under this Section shall be open for business, and no customers be permitted on the premises, between the hours of 10:00 P.M. and 8:00 A.M.

Subd. 2 **Minors.** No licensee shall permit or allow any person under the age of 18 years to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of 18 years.

Subd. 3 **Health and Sanitation.** A licensee shall not allow:

A. Any partition between a subdivision, portion, or part of the licensed premises having an aperture which is designed or constructed to facilitate sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock, or female breast(s) between persons on either side of the partition.

B. A licensee shall not allow or have on the licensed premises or adjoining areas any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment that have doors, curtains, or portal partitions, unless such booths, stalls, or partitions have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms.

C. The Sanitarian shall have the authority to inspect or cause to be inspected the licensed premises and adjoining areas in order to ascertain the source of infection or reduce the spread of communicable diseases. The Sanitarian shall have the authority to issue orders to the licensee regarding health and sanitation.

Subd. 4 **Display.** No products or merchandise offered for sale or rental by the licensed premises or any activities which occur inside the licensed premises shall be visible from any point outside the licensed premises.

History: Ord 1993-10 adopted 8-25-93

Reference: M.S. 303, 333, 364.03 Subd. 2

Cross Reference: Sections 160, 185, 850, 900, 1340